

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENWOOD DIVISION

Tyrone Kelly #323630,

Plaintiff,

v.

Lt. Herman Young, Fairfield County
Sheriff; Lt. Brad Douglas, Fairfield County
Sheriff Dept; Officer Ross Sparks, Fairfield
County Sheriff Dept; Officer Lee Haney,
Fairfield County Sheriff Dept; Officer
Jeremy Ashford, Fairfield County Sheriff
Dept; Attorney Robert Fitzsimons,
Fairfield County Public Defender; Attorney
Charles T. Brooks, III, Sumter County;
Councilman Cornell Murphy; Officer
Jerrid Douglas Fairfield County Sheriff
Dept.; Mark Edenfield, Fairfield County
Sheriff Dept.; Douglas Barfield, Fairfield
County Solicitor Office; Cynthia
Richardson, Grand Jury Fore Person,

Defendants.

C/A NO. 8:09-2848-CMC-BHH

OPINION and ORDER

This matter is before the court on Plaintiff's *pro se* complaint, filed in this court pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pre-trial proceedings and a Report and Recommendation ("Report"). On December 10, 2009, the Magistrate Judge issued a Report recommending that the complaint be dismissed without prejudice and without issuance and service of process. The Magistrate Judge advised Plaintiff of the procedures and

requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff filed objections to the Report on December 23, 2009.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Plaintiff's objections provide no avenue for relief from the basic infirmities of the complaint. Defendants are either immune from suit or Plaintiff's claims are barred under *Heck v. Humphrey*, 512 U.S. 477 (1994).

Plaintiff's complaint is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
January 7, 2010